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February 17, 2017

Via Electronic Filing

Hon. Christian F. Hummel,
U.S. Magistrate Judge
James T. Foley U.S. Courthouse
445 Broadway
Albany, New York 12207

Re:John C. Breitenbach, Jr., Individually and as Executor of the Estate of Deborah J. Breitenbach v. The United States of America, Nancy A. Caffrey, R.P.A.-C, Moses Ludington Hospital and Inter-Lakes Health Inc. (USDC/NDNY Civil Action No. 1:16-CV-11 (GLS/CFH))

Dear Judge Hummel:

On behalf of both parties and counsel to the above action, please accept our apologies for the delay in providing the Court with the status report required pursuant to the May 3, 2016 Uniform Pretrial Scheduling Order. In furtherance of the same, we offer the following information to the Court as to the status of the action in general and more specifically, as to the discovery which has occurred to date.

The Court required that all discovery be completed by April 28, 2017 and the paper discovery demands that have been served amongst the parties have been addressed, answered and responded to by the opposing parties. Plaintiff's expert disclosure was made as required by said Order and based upon certain objections that opposing counsel had to the disclosure, a supplementation is being provided. Additionally, opposing counsel have requested copies of the supporting materials used by plaintiff's expert and the same are being forwarded via regular mail. It is our understanding that counsel believes that defendant's expert disclosure will be timely made.

The selected mediator, former State Court Judge Joseph Teresi, has confirmed his availability for the mediation scheduled for April 26, 2017 at 9:15 a.m. in Albany, New York. Counsel for the parties have agreed to circulate a mediation agreement. As to the depositions of the parties or their appropriate representatives, tentative deposition dates during the last week of March, 2017 have been proposed and counsel are in the process of confirming those dates.

As to the extent of settlement negotiations that have occurred to date, the defendant, The United States of America, has indicated that said discussions must await plaintiff's expert disclosure and a review of the

same. The parties fully intend to complete the disclosure discovery within the parameters set by the Court and to attend the mediation conference in good faith and in compliance with Court mandates.

Should the Court require or request anything additional from the parties, please do not hesitate to contact counsel. We appreciate the Court's patience and consideration of this matter.

Very truly yours,

BRENNAN & WHITE, LLP

/s/ Joseph R. Brennan

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